

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20544**

<i>In the Matter of</i>)	
)	
<i>Rules and Regulations Implementing</i>)	
<i>Minimum Customer Account Record Exchange</i>)	CG Docket No. 02-386
<i>Obligations on All Local and</i>)	FCC 04-50
<i>Interexchange Carriers</i>)	

**INITIAL COMMENTS OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS**

The National Association of Regulatory Utility Commissioners (NARUC) respectfully submits these initial comments on the proposed rules published on Monday, April 19, 2004 in the Federal Register (69 FR 20845) in the above captioned proceeding.

The Commission seeks comment on whether it should impose mandatory minimum Customer Account Record Exchange (CARE) obligations on all local and interexchange carriers and, in specified situations, require carriers to transmit certain CARE codes to involved carriers that are designed to provide specific billing and other essential customer data. It also asks whether adopting a mandatory minimum CARE standard for wireline-to-wireless porting would impose a burden on LECs and/or commercial mobile radio service (CMRS) providers, and seeks input on what steps might be taken to ameliorate or minimize any such burden. The document also seeks comment on proposals for addressing billing issues in wireline-to-wireless number porting situations.

NARUC commends the FCC for initiating the proceeding and offers the following comments for the Commission's consideration.

I. NARUC'S INTEREST

NARUC is a nonprofit organization founded in 1889. Its members include the government agencies in the fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands charged with regulating the activities of telecommunications,¹ energy, and water utilities. Congress and the courts² have consistently recognized NARUC as a proper entity to represent the collective interests of the State public utility commissions. In the Federal Telecommunications Act,³ Congress references NARUC as “the national organization of the State commissions” responsible for economic and safety regulation of the intrastate operation of carriers and utilities.⁴

NARUC's interest in this proceeding is driven by two separate policy resolutions that target the issues presented. The first, passed by the association in February of 2003, specifically endorsed carrier petitions to the FCC seeking the initiation of this rulemaking. That resolution also specifically supports the creation of rules that:

- Require mandatory exchange of customer account information.
- Develop mandatory minimum requirements relative to the exchange of customer account information between IXC's, LEC's and CLEC's that include the minimum customer data fields required as well as timeframes for sending and acting on the customer account information
- Allow carriers flexibility in the format of the exchange of the customer information provided all the necessary data is exchanged.

¹ NARUC's member commissions have oversight over intrastate telecommunications services and particularly the local service supplied by incumbent and competing local exchange carriers (LECs). These commissions are obligated to ensure that local phone service supplied by the incumbent LECs is provided universally at just and reasonable rates. They have a further interest to encourage LECs to take the steps necessary to allow unfettered competition in the intrastate telecommunications market as part of their responsibilities in implementing: (1) State law and (2) federal statutory provisions specifying LEC obligations to interconnect and provide nondiscriminatory access to competitors. See, e.g., 47 U.S.C. § 252 (1996).

² See *United States v. Southern Motor Carrier Rate Conference, Inc.*, 467 F. Supp. 471 (N.D. Ga. 1979), aff'd 672 F.2d 469 (5th Cir. 1982), aff'd en banc on reh'g, 702 F.2d 532 (5th Cir. 1983), rev'd on other grounds, 471 U.S. 48 (1985). See also *Indianapolis Power and Light Co. v. ICC*, 587 F.2d 1098 (7th Cir. 1982); *Washington Utilities and Transportation Commission v. FCC*, 513 F.2d 1142 (9th Cir. 1976).

³ *Communications Act of 1934*, as amended by the *Telecommunications Act of 1996*, 47 U.S.C. §151 *et seq.*, Pub.L.No. 101-104, 110 Stat. 56 (1996) (West Supp. 1998) (“Act” or “1996 Act”).

⁴ See 47 U.S.C. § 410(c) (1971) (NARUC nominates members to FCC Joint Federal-State Boards which consider universal service, separations, and related concerns and provide formal recommendations that the FCC must act upon; Cf. 47 U.S.C. § 254 (1996) (describing functions of the Joint Federal-State Board on Universal Service). Cf. *NARUC, et al. v. ICC*, 41 F.3d 721 (D.C. Cir 1994) (where the Court explains “...Carriers, to get the cards, applied to...(NARUC), an interstate umbrella organization that, as envisioned by Congress, played a role in drafting the regulations that the ICC issued to create the "bingo card" system.)

The second NARUC resolution passed earlier this year in March at NARUC's winter meetings in Washington, D.C. The resolution was a follow-up to the Consumer Affairs production of a set of model standards for exchange of customer account information. The resolution "...adopts the principles expressed in the Model Standards Relative to the Exchange of Customer Account Information Between Carriers," and encourages States to "carefully consider the Model Standards Relative to the Exchange of Customer Account Information Between Carriers and to use them as a template upon which to build their own customized individual standards. The resolution went on to specify that NARUC should participate in any future proceedings before the FCC that involve "mandatory minimum requirements relative to the exchange of customer account information between IXC's, LEC's and CLEC's. Copies of both resolutions, and the "Model Standards" are attached as Appendices to this pleading.

II. DISCUSSION

Based on estimates provided by NARUC member States, it appears that somewhere between 30% to 50% of billing-related telecommunications complaints received by State Commissions stem from a breakdown in communications among the numerous carriers involved in changing a customer's primary interexchange carrier (PIC). Indeed, industry representatives present at a workshop sponsored by the New England Conference of Public Utilities Commissioners in Boston, Massachusetts in July 2000 acknowledged the carrier change process is flawed. The industry participants estimated that twenty percent of carrier changes fail to flow through seamlessly, often resulting in harm to consumers as well as the marketplace. While industry did not completely agree on how to solve the problem, participants agreed that changes to the existing carrier change process - the Customer Account Record Exchange (CARE) process -are necessary.

Those present also basically agreed that if CARE was modified to reflect the increased complexity of the marketplace and use of CARE was made mandatory for use by all carriers, rather than remaining a voluntary, industry-recommended procedure, there would be far fewer consumer complaints. During the 2002 NARUC Winter Meetings, in response to the growing number of consumer complaints to State commissions regarding billing issues arising from the customer's change in PIC, the NARUC Consumer Affairs Subcommittee adopted the issue of standards for carrier changes as a work project. The immediate outgrowth of that work was the March 2003 resolution mentioned earlier. That resolution makes clear that the minimum that the FCC should accomplish in this proceeding to address this problem is to create rules that (1) require mandatory exchange of customer account information, (2) include mandatory *minimum* requirements relative to the exchange of customer account information between IXC's, LEC's and CLEC's that include the minimum customer data fields required as well as timeframes for sending and acting on the customer account information, but still allow the carriers some flexibility in the format of the exchange of the customer information provided all the necessary data is exchanged.

In creating those rules, the Commission may want to examine a set of model rules NARUC has adopted as a template for State commission's consideration. At the 2003 NARUC Summer Meetings, the Committee on Consumer Affairs considered a resolution endorsing draft State carrier change standards. Representatives from the inter-exchange carriers indicated they had some technical comments on the proposed model rules. The Committee subsequently agreed to defer consideration of the resolution until such time as the Staff Subcommittee had the opportunity to meet with industry regarding their comments. Both inter-exchange carriers and local exchange carriers had the opportunity to comment on the proposed model rules. The proposed standards were revised to incorporate many of those comments. Some questioned the necessity of these standards, indicating that the industry has a successful track record of working through problems

with CARE cooperatively through the Alliance for Telecommunications Industry Solutions Subscription Committee (ATIS), Ordering and Billing Forum process. Whatever the benefits of industry created solutions for exchange of such information, unfortunately industry cannot mandate the use of those standards for all sector participants nor impose specific timeframes for information exchange. Indeed, some sector members, e.g. some competitive local exchange carriers, do not participate in current CARE process and as a result, customers suffer. Even among sector members who participate in CARE, there are problems. Some small independent telephone companies only provide CARE records once a month. A customer that requests a change in its IXC at the beginning of the month may wait until the end of the month before the IXC knows it has acquired or lost a customer. In the meantime, the customer receives incorrect bills. Other local exchange carriers have indicated that they do not notify the old PIC when a customer changes their carrier. As a result, the customer continues to be billed monthly service charges by the old PIC. Because of these problems, in March of 2004, NARUC adopted the principles in the attached model rules and “encouraged [its State membership] to carefully consider the Model Standards Relative to the Exchange of Customer Account Information Between Carriers and to use them as a template upon which to build their own customized individual standards.” The Commission might find the model rules useful in its deliberations.

CONCLUSION

State Commissions' experience and both NARUC resolutions confirm that FCC rules should set minimum requirements requiring mandatory exchange of customer account information, but still allow the carriers some flexibility in the format of the exchange of the customer information provided all the necessary data is exchanged.

Respectfully submitted,

/S/

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Appendix A – March 2004 Resolution

Resolution Of NARUC Encouraging States to Adopt Minimum Requirements Relative To The Exchange Of Customer Account Information Between Interexchange Carriers, Local Exchange Carriers And Competitive Local Exchange Carriers

WHEREAS, Interexchange carriers (IXCs), local exchange carriers (LECs) and competitive local exchange carriers (CLECs) must provide information to one another to facilitate a change in a customers' presubscribed interexchange carrier (PIC) and maintain correct billing information; and

WHEREAS, The Alliance for Telecommunications Industry Solutions' Subscription Committee, Ordering and Billing Forum established voluntary standards for industry for use in the exchange of information between IXCs, LECs and CLECs, a process known as CARE (Customer Account Record Exchange); and

WHEREAS, Some providers of telecommunications service fully support CARE, providing the data necessary to smoothly effect a customer's change of PIC; and

WHEREAS, Not all providers of telecommunications service use the CARE process for exchanging customer account information, and, of those who do utilize CARE, there are instances in which information necessary to ensure accurate billing to the customer is not always provided or acted upon in a complete and/or timely manner; and

WHEREAS, The failure of telecommunications carriers to universally exchange data or act on data received in a complete and/or timely manner has resulted in significant increase in customer complaints to State commissions regarding billing issues arising from the customer's change of PIC; and

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC) at its 2003 Winter Meetings urged the FCC to open a rulemaking to develop mandatory minimum CARE standards in support of a petition filed by ATT Corporation, Sprint Corporation and WorldCom, Inc.; and

WHEREAS, The FCC has not yet acted upon the ATT, Sprint, WorldCom petition; and

WHEREAS, The NARUC Staff Subcommittee on Consumer Affairs has developed Model Standards Relative to the Exchange of Customer Account Information between Carriers to address the significant billing issues arising from the failure of telecommunications carriers to universally exchange data or act on data received in a timely manner; now therefore be it

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened at its March 2004 Winter Meetings in Washington, D.C., adopts the principles expressed in the Model Standards Relative to the Exchange of Customer Account Information Between Carriers; and be it further

RESOLVED, That States are encouraged to carefully consider the Model Standards Relative to the Exchange of Customer Account Information Between Carriers and to use them as a template upon which to build their own customized individual standards; and be it further

RESOLVED, That NARUC should participate in any future proceedings before the FCC regarding mandatory minimum requirements relative to the exchange of customer account information between IXCs, LECs and CLECs.

***Sponsored by the Committee on Consumer Affairs
Adopted by the NARUC Board of Directors on March 10, 2004***

Appendix B – February 2003 Resolution

Mandatory Minimum Requirements Relative to the Exchange of Customer Account Information between Inter-Exchange Carriers, LECs and CLECs

WHEREAS, Inter-exchange carriers (IXCs), local exchange carriers (LECs) and competitive local exchange carriers (CLECs) must provide information to one another to facilitate a change in a customer's presubscribed interexchange carrier (PIC); and

WHEREAS, The Alliance for Telecommunications Industry Solutions' Subscription Committee, Ordering and Billing Forum established voluntary standards for industry for use in the exchange of information between IXCs, LECs and CLECs, a process known as CARE (Customer Account Record Exchange); and

WHEREAS, Not all providers of telecommunications service use the CARE process or a similar process for exchanging customer account information and of those who do utilize CARE or a similar process, there are instances in which information necessary to ensure accurate billing to the customer is not always provided or acted upon in a timely manner; and

WHEREAS, The failure of telecommunications carriers to universally exchange data or act on data received in a timely manner has resulted in a significant increase in customer complaints to state commissions regarding billing issues arising from the customer's change in PIC; and

WHEREAS, The FCC is considering a request by ATT Corporation, Sprint Corporation and WorldCom, Inc. to implement mandatory minimum CARE standards; and

WHEREAS, NARUC believes it is necessary to mandate the exchange of customer account information between IXCs, LECs and CLECs but that it is appropriate to allow the carriers flexibility on the format for exchanging customer account information in order to allow it to be done in a cost effective manner; now therefore be it

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened in its February 2003 Winter Meetings in Washington D.C., supports the petition filed by ATT, Sprint and MCI as far as it requires mandatory exchange of customer account information but is not, at this time, supportive of the requirement to use the CARE process; and be it further

RESOLVED, That NARUC urges the FCC open a rulemaking to develop mandatory minimum requirements relative to the exchange of customer account information between IXCs, LECs and CLECs and that such requirements include the minimum customer data fields required as well as timeframes for sending and acting on the customer account information; and be it further

RESOLVED, That NARUC also urges the FCC to allow the carriers flexibility in the format of the exchange of the customer information provided all the necessary data is exchanged. Sponsored by the Consumer Affairs Committee

Adopted by the NARUC Board of Directors February 26, 2003